

Overview of Corporate License Tax

tion has no property, sales, or payroll in the state during the tax period, it is exempt from the minimum tax.

In Montana, net operating losses (NOL) of the corporation may be carried back for a period of three years and used to reduce prior year income, and may be carried forward for a period of seven years to reduce income in those future years. Until recently, federal tax rules allowed NOLs to be carried back two years and then forward for up to 20 years (corporations can also voluntarily elect to just carry forward losses for up to 20 years). However, in November 2009, H.R. 3548, the "Worker, Homeownership, and Business Assistance Act of 2009", became law. This act increases the allowable carryback period for applicable net operating losses at the federal level for most corporations from 2 years to 3, 4, or 5 years. An applicable NOL means the taxpayer's NOL for any tax year ending after Dec. 31, 2007, and beginning before Jan. 1, 2010.

The table below provides a comparison of Montana treatment of net operating loss deductions versus other states in the region. Like Montana, Utah provides a three year carryback of net operating losses, but has a limit of \$1 million. Utah allows losses to be carried forward up to 15 years versus 7 years for Montana. Idaho allows losses to be carried back against income for up to 2 years, but limits carryback losses to \$100,000; Idaho allows carryforward of losses for up to 20 years. Arizona, Colorado, North Dakota and Oregon allow carry-

forward of losses for 5 years, 20 years, 20 years and 15 years, respectively, and do not allow carryback of loss deductions.

The table on the next page provides a comparison of all states with a corporate income tax and what they allow in terms of carrying net operating losses backward and forward. All states with a corporate income tax allow some form of carryforward of losses, from five to twenty years, but many do not allow carryback of net operating losses.

Comparison with Other States in Region with a Corporate Income Tax	
Net Operating Loss Deductions	
State	Carryback/Carryforward periods
Arizona	0 back, 5 forward
Colorado	0 back, 20 forward
Idaho	2 back (\$100,000 limit), 20 forward, or 0 back, 20 forward
Montana	3 back, 7 forward
North Dakota	0 back, 20 forward
Oregon	0 back, 15 forward
Utah	3 back (limited to \$1 million), 15 forward
Nevada, Washington and Wyoming do not have a corporate income tax.	

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Thirty one states do not allow carryback of net operating losses, but do allow carryforward of losses, from 5 years up to 20 years. Twelve states allow the same carryforward and carryback periods as federal tax law has his-

torically allowed (2 back and 20 forward). Three states - Montana, Utah and Louisiana - allow corporations with net operating losses to carry back these losses against the three prior years of income.

States with Corporate Taxes Allowed Carrybacks and Carryforward Periods for Net Operating Losses							
	Allowed years of carryforward						
	5 years forward	7 years forward	10 years forward	12 years forward	15 years forward	20 years forward	
Allowed years of carryback	0 years back	Arizona Arkansas Massachusetts Nebraska New Mexico Rhode Island Texas	New Jersey	Kansas Michigan New Hampshire 3/ Vermont	Illinois	Alabama Minnesota North Carolina Oregon Tennessee Wisconsin	California Colorado Connecticut District of Columbia Florida Iowa Kentucky Maine North Dakota Ohio Pennsylvania 5/ South Carolina
	2 years back						Alaska Delaware 1/ Georgia Hawaii Idaho 2/ Indiana Maryland Mississippi Missouri New York 4/ Virginia West Virginia 7/
	3 years back		Montana			Louisiana Utah 6/	

Source: 2010 State Tax Handbook, CCH, 2009.

^{1/} Delaware has a \$30,000 limits on carrybacks.

^{2/} Idaho has a \$100,000 limit on carrybacks.

^{3/} New Hampshire limits carryforward of losses to \$1 million.

^{4/} New York has a limit of the first \$10,000 of loss on carrybacks.

^{5/} Pennsylvania has a limit of \$3 million or 15% of taxable income for tax year 2009, and \$3 million or 20% of taxable income for tax year 2010 on carryforward.

^{6/} Utah has a \$1 million limit on carrybacks.

^{7/} West Virginia limits carrybacks to \$300,000.